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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,803	03/23/2004	Keisuke Koga	10873.1427US01	2904

7590 01/11/2006

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EXAMINER

PATEL, VIP

ART UNIT PAPER NUMBER

2879

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/806,803

Applicant(s)

KOGA ET AL.

Examiner

Vip Patel

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0304</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Jones (US 5869169).

Jones discloses a field emission source (figure 3) comprising a silicon substrate (not shown in figure; bottom plate), a insulating layer (element shown between reference numerals 52 and 62) with plurality of openings (60), cone shaped cathodes (figures 1 and 2; cathode of Mb would be arrayed on the substrate), a lead electrode (62), and a surface modifying layer (SiC; 16) on the surface of the cathodes. Note, claim limitations of chemical bond (claim 1) and claim 3 are met by Jones having the surface modifying layer of SiC.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 5869169) and common knowledge in the art as evidenced by Alig (US 4178531).

Jones teaches all the limitations of claim 12 and 13 including an image display apparatus (display assembly: line 13 of column 1) that inherently has elements such as electron gun, deflector, and phosphor layer in a vacuum container in which field emission sources are utilized. These elements must be present in a display apparatus in order to make a complete viewable display device. Note, Jones has recited phosphor layer (66) in order for image to be produced and field emission is produced/obtained and directed/deflected by deflector to desired phosphor pixels in a vacuumed environment. Alternatively, providing of Jones' field emission sources in an image display apparatus having above elements is notoriously known in the art in order to have complete operating display device as evidenced by Alig (US 4178531) and Taira et al (US 6333724)

Regarding claim 2, as to claimed material of cathode being silicon, it is noted that alternatively the cathode material may also be Molybdenum as claimed by applicant in claim 6 and also taught by Jones. Therefore, the claimed cathode may be constructed of any suitable material as a design alternative. Alternatively, this limitation is not deemed patentable since the applicant's disclosure fails to show such limitations to solve any problems or to yield any unobvious advantage that is not within the scope of the teachings applied. Therefore, such limitations would be a matter of design alternative.

#### **Other Prior Art Cited**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Neukermans et al, in US 5393647, disclose superhard tips for field emission.

Seats et al, in US 5663611, disclose a plasma display panel with field emitter.

Xu et al, in US 6356014, discloses electron emitter coated with carbon containing layer.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vip Patel whose telephone number is (571) 272-2458. The examiner can normally be reached on Monday-Thursday. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIP PATEL  
PRIMARY EXAMINER  
ART UNIT 2879